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Mark Haines

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INTELLECTUAL PROPERTY ADMINISTRATION
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EXAMINER

MRUK, GEOFFREY S

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MARK HAINES,
JEFFREY THIELMAN, and
PRISCILLA ANDERSON

Appeal 2008-0950
Application 10/635,636
Technology Center 2800

Decided: June 30, 2008

Before ROMULO H. DELMENDO, JEFFREY T. SMITH, and
LINDA M. GAUDETTE *Administrative Patent Judges*.

SMITH, *Administrative Patent Judge*.

DECISION ON APPEAL

Statement of the Case

This is an appeal under 35 U.S.C. § 134 from a final rejection of claims 1-10, 12 and 13. We have jurisdiction under 35 U.S.C. § 6.¹

¹ In rendering this decision we have Appellants Briefs submitted August 10, 2006, and January 02, 2007.

Appellants' invention relates to a filter for a printhead assembly. The filter includes a frame having an opening formed therein, filter material enclosing the opening of the frame, and a fluid fitting associated with the frame, the fluid fitting including a fluid port offset from the frame and a fluid passage communicated with the opening of the frame and the fluid port. (Spec. 2). Independent claim 1 appears below:

1. A filter for a printhead assembly, the filter comprising:
a frame having a first face and a second face opposite the first face, and an opening formed therein communicated with the first face and the second face;
separate filter material provided on each the first face and the second face of the frame, and enclosing the opening of the frame; and
a fluid fitting associated with the frame, the fluid fitting including a fluid port offset from the frame and a fluid passage communicated with the opening of the frame and the fluid port.

The Examiner finally rejected the appealed claims 1-8 and 10-12 as follows:

- I. Claims 1-8, 12, and 13 stand rejected under 35 U.S.C. § 102(b) as anticipated by Arashima, US Patent No. 5,481,289, dated January 2, 1996.
- II. Claims 9 and 10 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Arashima in view of Lattuca, US Patent No. 6,398,354, dated June 4, 2002..

We have thoroughly reviewed each of Appellants' arguments for patentability. We are in complete agreement with Appellants that the claimed subject matter is not anticipated by or rendered obvious over the

cited prior art within the meaning of §§ 102 and 103. Accordingly, we will reverse the Examiner's rejections.²

The Examiner has the burden of making out a prima facie case of anticipation by pointing out where each and every element of the claimed invention is described in a single prior art reference, either expressly or under the principles of inherency, in a manner sufficient to have placed a person of ordinary skill in the art in possession thereof. *In re Spada*, 911 F.2d 705, 708 (Fed. Cir. 1990). In order to establish a prima facie case of obviousness, the Examiner must show that each and every limitation of the claim is described or suggested by the prior art or would have been obvious based on the knowledge of one of ordinary skill in the art. *In re Fine*, 837 F.2d 1071, 1074 (Fed. Cir. 1988)).

The issue before us is whether Appellants have shown that the Examiner erred in rejecting claim 1 under 35 U.S.C. § 102(b). We answer this question in the affirmative. The issue turns on whether the Examiner has established that the filter for a printhead assembly of Arashima is the same as the subject matter of claim 1.

The Examiner contends that Arashima discloses a filter for a printhead assembly. Specifically the Examiner states (Ans. 3):

Arashima discloses a filter (Fig. 7, elements 63, 70) for a printhead assembly (Fig. 3)) the filter comprising:

- a frame (Fig. 7, element 19) having a first face (Fig. 7, element 94) and a second face opposite the first face (Fig. 7, element 52), and
- an opening (Fig. 3, element 69) formed therein communicated with the first face and the second face;

² In rendering this decision we have limited our discussion to claim 1, the sole independent claim on appeal.

- separate filter material (Fig. 7, elements 63, 70) provided on each [of] the first face and the second face of the frame, and enclosing the opening of the frame (Column 10, lines 55-61); and
- a fluid fitting (Column 6, lines 47-49, i.e. press fit) associated with the frame, the fluid fitting including a fluid port offset from the frame and a fluid passage (Fig. 7, volume of element 52) communicated with the opening of the frame and the fluid port.

We fully agree with Appellants that Arashima does not describe the claimed invention. Appellants properly determine that

the first filter member (70) of the Arashima et al. patent is provided in the ink outlet section or ink leading-out port (94) of the ink container and the second filter member (63) of the Arashima et al. patent is provided in the ink supply passage or tube (52) (see Fig. 7; col. 10, lines 55-61). In addition, the ink supply tube (52) of the Arashima et al. patent communicates with the ink outlet section or ink leading-out port (94) of the ink container (19) and the ink discharging ports (30) of the recording unit. The first and second filter members (63 and 70) of the Arashima et al. patent, however, are not provided on opposite faces of a frame of the ink supply mechanism and do not enclose an opening of the frame. Furthermore, the ink supply tube (52) of the Arashima et al. patent does not include a fluid port offset from a frame of the ink supply mechanism and a fluid passage communicated with the opening of the frame (as enclosed by separate filter material provided on opposite faces of the frame) and the fluid port.

Appellant, therefore, submits that the first filter member (70) and the second filter member (63) of the Arashima et al. patent do not constitute separate filter material provided on opposite first and second faces of a frame and enclosing an opening of the frame, as claimed in independent claim 1 . . . and submits that the ink supply tube (52) of the Arashima et al. patent does not constitute a fluid fitting including a fluid port offset from a frame of the ink supply mechanism and a fluid passage

communicated with the opening of the frame and the fluid port,
as claimed in independent claim 1.
(App. Br. 5).

For the reasons above and those presented in the Briefs, we find that
the subject matter of claims 1-8, 12 and 13 are not anticipated by the filter
for printhead assembly of Arashima.

Regarding the rejection of claims 9 and 10 under 35 U.S.C. § 103(a)
as unpatentable over Arashima in view of Lattuca, we reverse. The
Examiner relied upon the Lattuca reference for describing a printhead
apparatus comprising a fluid fitting that renders the claimed surface-oriented
angle obvious. The Examiner did not rely upon the Lattuca reference to
remedy the differences between Arashima and the claimed invention
outlined above. Consequently, for the foregoing reasons, the rejection of
claims 9 and 10 under 35 U.S.C. § 103(a) is reversed.

ORDER

The rejections of claims 1-10, 12 and 13 are reversed.

REVERSED

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